

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition to Resolve)	DOCKET NO. 910653-GU
Territorial Dispute with Peoples)	ORDER NO. 25358
Gas System, Inc. by Sebring)	ISSUED: 11/19/91
Gas System, a Division of Coker)	
Fuels, Inc.)	
)	

Pursuant to Notice, a Prehearing Conference was held on November 8, 1991, in Tallahassee, Florida, before Commissioner Betty Easley, Prehearing Officer.

A. APPEARANCES:

NORMAN H. HORTON, JR., Esquire, Oertel, Hoffman, Fernandez & Cole, 2700 Blairstone Rd., Suite C, Tallahassee, Florida 32301
On behalf of Sebring Gas System, a Division of Coker Fuels, Inc.

ANSLEY WATSON, JR., Esquire, Macfarlane, Ferguson, Allison & Kelly, Post Office Box 1531, Tampa, Florida 33601
On behalf of Peoples Gas System, Inc.

ROBERT D. VANDIVER, Esquire, and PRENTICE PRUITT, Esquire, Office of General Counsel, 101 East Gaines Street, Suite 212, Tallahassee, Florida 32399-0861
Counsel to the Commissioners.

MARY ANNE BIRCHFIELD, Esquire, and MICHAEL A. PALECKI, Esquire, Fletcher Building, 101 East Gaines Street, Suite 226, Tallahassee, Florida 32399-0863
On behalf of Commission Staff.

PREHEARING ORDERBackground

On April 30, 1991, Sebring Gas System (Sebring), a division of Coker Fuels, Inc., filed a Petition for Issuance of Order Declaring Jurisdiction. The Commission issued an Order Declaring Jurisdiction over Sebring Gas System on July 5, 1991 (Order No. 24761). In this Order, the Commission noted that "[o]ne of the reasons that Sebring petitioned this Commission to declare jurisdiction over the Company was so that we would be able to resolve any territorial disputes the Company may have with other gas utilities."

DOCUMENT NUMBER-DATE

11461 NOV 19 1991

FPSC-RECORDS/REPORTING

ORDER NO. 25358
DOCKET NO. 910653-GU
PAGE 2

Sebring filed its Petition to Resolve Territorial Dispute on June 4, 1991, and Docket No. 910653-GU was opened.

In addition, it should be noted that on August 20, 1991, Sebring requested test year approval for a rate case proceeding. Accordingly, Docket No. 910873-GU was initiated to establish rates for Sebring. The Commission will vote on Sebring's initial rates at the November 19, 1991, Agenda Conference. The Commission is scheduled to vote on final rates for Sebring at a Special Agenda Conference on May 8, 1992.

Use of Prefiled Testimony

All testimony which has been prefiled in this case will be inserted into the record as though read after the witness has taken the stand and affirmed the correctness of the testimony and exhibits, unless there is a sustainable objection. All testimony remains subject to appropriate objections. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand.

Use of Depositions and Interrogatories

If any party desires to use any portion of a deposition or an interrogatory, at the time the party seeks to introduce that deposition or a portion thereof, the request will be subject to proper objections and the appropriate evidentiary rules will govern. The parties will be free to utilize any exhibits requested at the time of the depositions subject to the same conditions.

B. ORDER OF WITNESSES

In keeping with Commission practice, witnesses will be grouped by the subject matter of their testimony. The witness schedule is set forth below in order of appearance by the witness's name, subject matter, and the issues which will be covered by his or her testimony.

ORDER NO. 25358
DOCKET NO. 910653-GU
PAGE 3

<u>Witness</u>	<u>Subject Matter</u>	<u>Issues</u>
<u>SEBRING - DIRECT</u>		
Jerry H. Melendy, Jr.	Operations of Sebring Gas and the ability of Sebring Gas to serve the disputed territory.	1-13
<u>PEOPLES - DIRECT</u>		
H. M. Grey, III	Peoples and its service area; description of the area in dispute; Peoples' current facilities; additional facilities needed to serve those customers who have requested service within the disputed area; and other information pertinent to the issues.	1-13
<u>SEBRING - REBUTTAL</u>		
Jerry H. Melendy	Rebuttal of portions of H. M. Grey's Direct Testimony	

C. EXHIBIT LIST

<u>Exhibit Number</u>	<u>Witness</u>	<u>Description</u>
<u>(JHM-1)</u>	Melendy (SEBRING)	Order of FERC directing the sale of natural gas.
<u>(JHM-2)</u>	Melendy (SEBRING)	Revised Exhibits to Agreements with Florida Gas Transmission and Natural Gas Transportation Agreement.
<u>(JHM-3)</u>	Melendy (SEBRING)	Sebring Gas System Service Area

ORDER NO. 25358
 DOCKET NO. 910653-GU
 PAGE 4

<u>Exhibit Number</u>	<u>Witness</u>	<u>Description</u>
<u>(JHM-4)</u>	Melendy (SEBRING)	Description and map of disputed area.
<u>(JHM-5)</u>	Melendy (SEBRING)	Existing and proposed service facilities.
<u>(HMG-1)</u>	Grey (PEOPLES)	Map showing disputed area and proposed extension of facilities needed to serve area.
<u>(HMG-2)</u>	Grey (PEOPLES)	Requests for gas service received by Peoples.
<u>STAFF-1</u>	STAFF	Peoples Gas System's Responses to Staff's First Set of Interrogatories (Numbers 1-18).
<u>STAFF-2</u>	STAFF	Sebring Gas System's Responses to Staff's First Set of Interrogatories (Numbers 1-18).
<u>STAFF-3</u>	STAFF	Transcript of Hugh M. Grey, III's Deposition taken on October 29, 1991
<u>STAFF-4</u>	STAFF	Transcript of Steven J. Jarboe's Deposition taken on October 29, 1991
<u>STAFF-5</u>	STAFF	Transcript of Jerry H. Melendy, Jr.'s Deposition taken on October 29, 1991

ORDER NO. 25358
 DOCKET NO. 910653-GU
 PAGE 5

<u>Exhibit Number</u>	<u>Witness</u>	<u>Description</u>
<u>STAFF-6</u>	STAFF	Map C showing the disputed area and the location of certain existing facilities.

The parties have reserved their right to introduce any portion of Staff's Exhibits on their own motion.

D. PARTIES' STATEMENT OF BASIC POSITION

STAFF: None at this time.

SEBRING GAS SYSTEM (SEBRING): Sebring Gas System has the capability to provide natural gas to customers in the disputed area. Sebring has been providing propane gas to customers in Sebring and the vicinity for 50 years and the disputed territory is a natural service area for Sebring given its location and the proximity of Sebring Gas' lines. Moreover, the disputed territory is a natural expansion area for Sebring Gas and the inability to serve this area will hinder any future growth for Sebring Gas and will result in a denial to Sebring of both an opportunity to continue serving its natural area and an opportunity to earn a fair and reasonable return on its investment.

PEOPLES GAS SYSTEM, INC. (PEOPLES): Neither Peoples nor Sebring Gas System provided, at the time of the filing of the petition of this docket, or presently provides, natural gas service within the disputed area. Both Peoples and Sebring Gas System must extend their existing distribution systems in order to provide natural gas service to customers within the disputed area, and Sebring Gas System's system must be converted to permit delivery of natural gas (as opposed to propane gas). The disputed area could be considered as being in the historical service areas of both Peoples and Sebring Gas System. However, Sebring Gas System has no historical service area with respect to the provision of natural gas service. Peoples, prior to the initiation of the dispute in this docket by Sebring Gas System, intended to extend its facilities to serve the disputed area, and should be permitted to do so by the Commission. The Commission's awarding of the disputed area to Peoples would not result in any duplication of natural gas facilities within the disputed area.

ORDER NO. 25358
DOCKET NO. 910653-GU
PAGE 6

E. STATEMENT OF ISSUES AND POSITIONS

ISSUE 1: What is the geographical boundary of the disputed area?

POSITION

The position to Issue 1 has been stipulated to by all parties. See Section G of this Order for the stipulated position to this issue.

ISSUE 2: Which utility has historically served the area?

POSITION

STAFF: No position at this time.

SEBRING: Sebring has provided propane gas through tanks and underground systems in the City of Sebring and the surrounding vicinity for over 40 years. Neither Peoples Gas nor Sebring Gas has provided natural gas to the area in dispute.

PEOPLES: Neither utility has historically provided natural gas service within the disputed area. Peoples has historically provided natural gas service to an area lying north of the disputed area, and Sebring Gas System has historically provided underground propane gas service to an area lying mainly east of the disputed area.

ISSUE 3: What is the location, purpose, type, and capacity of each utility's facilities existing as of the filing of the petition by Sebring?

POSITION

STAFF: No position at this time.

SEBRING: Sebring Gas has an existing underground system for propane distribution in the downtown area of Sebring which extends along Schumacher Road to approximately U.S. Highway 27. This is a 4" PE main. Sebring has a 4" line which extends north of Schumacher to serve customers in that area and two lines which extend south of the same road; primarily to serve customers in the Sebring Square area. These lines are shown on Exhibit JM-2 as well as

ORDER NO. 25358
DOCKET NO. 910653-GU
PAGE 7

the Company's response to staff interrogatories. Sebring also has an underground system south of the downtown area and smaller pockets west of Lake Jackson. These will eventually be connected with the base system. Most of the existing underground system is 4" PE.

PEOPLES: Peoples presently (and at the time of the filing of Sebring's petition in this docket) had a four-inch polyethylene plastic main extending from Avon Park south to a point northwest of the intersection of U.S. Highway 27 and Sun-n-Lakes Boulevard. This is a part of Peoples' Highlands Division, which serves Frostproof, Avon Park, and the adjacent area.

ISSUE 4: Does either company have any facilities for the provision of gas within the disputed area?

POSITION

STAFF: No position at this time.

SEBRING: Sebring has approximately 3400' of 2" PE line and 48' of 1 1/4" line north of Fairmont and east of U.S. 27. Sebring presently serves 2 customers from this line. Sebring also has a small section of line in the mall area.

PEOPLES: No.

ISSUE 5: What additional facilities would each party have to build in order to provide service to the disputed area?

POSITION

STAFF: No position at this time.

SEBRING: To provide service to the Lakeshore Mall area, Sebring Gas would extend its existing 4" distribution line approximately 6710 feet south along U.S. Highway 27 to the mall. Sebring Gas would connect an existing underground system in a mobile home park east of U.S. Highway 27.

PEOPLES: Peoples would require a main extension of approximately 20,000 feet, consisting of approximately 10,300 feet of four-inch polyethylene plastic main from its existing

ORDER NO. 25358
DOCKET NO. 910653-GU
PAGE 8

main, south to the south side of Schumacher Road. From that point, south to the location of the proposed Lakeshore Mall, Peoples would install approximately 9,700 feet of coated and wrapped steel pipe, tested to provide a maximum allowable operating pressure of 125 p.s.i.g., in order to provide additional capacity for future expansion. Service lines would be required from the new main to customer locations, and meters, regulators, valves and gauges would also need to be installed. Sebring would require a main extension of approximately one mile of four-inch polyethylene plastic main, as well as service lines, meters, regulators, valves and gauges mentioned above. This extension would be connected to an existing main owned by Sebring which terminates on the Lakeshore Mall property. This existing main was installed after the filing of Sebring's petition in this docket.

ISSUE 6: What is the expected customer load and energy growth in the disputed area?

POSITION

STAFF: No position at this time.

SEBRING: Sebring estimates additional therm sales of approximately 200,000 therms based upon presently identified customers. There is a potential for additional growth as this is the direction of expansion for Sebring.

PEOPLES: Peoples would estimate an initial throughput of approximately 144,000 therms annually to approximately 20 residential and 16 commercial customers in the disputed area. With an anticipated steady increase in annual throughput, Peoples would expect an annual throughput of approximately 202,000 therms to approximately 60 residential and 22 commercial customers by the end of the fifth year.

ISSUE 7: How long would it take for each party to provide service to the disputed area?

POSITION

STAFF: No position at this time.

ORDER NO. 25358
DOCKET NO. 910653-GU
PAGE 9

SEBRING: Sebring Gas estimates that service could be provided to the Lakeshore Mall area in the disputed territory within 4-6 weeks of commencement.

PEOPLES: Peoples would be able to provide natural gas service to those customers within the disputed area from which it has received requests for gas service within a period of 12 to 14 weeks. Peoples believes it will take Sebring Gas System approximately 6 to 13 months to provide natural gas service to all of those customers within the disputed area who have requested such service of Peoples.

ISSUE 8: What is the ability of each utility to extend existing facilities to the area in question?

POSITION

STAFF: No position at this time.

SEBRING: Sebring Gas has the ability and capability to extend its existing facilities. Preliminary design and layout has been accomplished as well as contacts with contractors.

PEOPLES: Each utility has the ability to extend its existing facilities to serve the disputed area.

ISSUE 9: Has unnecessary duplication of natural gas facilities taken place in the vicinity of the disputed area?

POSITION

STAFF: No position at this time.

SEBRING: Unnecessary duplication has not taken place but would if this dispute is resolved in favor of Peoples Gas. Sebring has lines in place which would be passed by Peoples Gas. In addition, there is a portion of the territory between Lake Jackson and U.S. Highway 27, across from the disputed territory, which is within the city limits of Sebring. Sebring Gas has a franchise to serve this area from the City of Sebring, but Peoples Gas does not. Sebring Gas presently has an underground propane system in a park in this area and any expansion of its present system in that area south of Schumacher Road and east of U.S. Highway 27 would create a

ORDER NO. 25358
DOCKET NO. 910653-GU
PAGE 10

duplication of facilities if Peoples Gas is awarded this territory.

PEOPLES: No.

ISSUE 10: What would be the additional cost to each utility to provide natural gas service to the disputed area?

POSITION

STAFF: No position at this time.

SEBRING: The cost to Sebring Gas to serve this area is estimated to be \$108,776.00.

PEOPLES: Peoples estimates that its costs to install the additional facilities required in order to provide service to those customers in the disputed area who have requested service would be \$170,625 if its proposed main extensions consist of approximately 10,300 feet of 4-inch plastic main and approximately 9,700 feet of coated and wrapped steel pipe. If plastic is used for both segments of the main extension, Peoples estimates the total cost to be \$163,319.00.

ISSUE 11: If all other things are equal, what is the customer preference in the disputed area?

POSITION

STAFF: No position at this time.

SEBRING: Sebring does not believe "all other things are equal" thus customer preference is not at issue. If it is considered, Sebring Gas has received requests for customers in the Mall and along the route of the proposed line. Sebring Gas believes that present customers of its propane service and potential customers would support Sebring Gas in this proceeding.

PEOPLES: Peoples has received requests for natural gas service from customers along the route of its extension proposed to serve the disputed area. If the Commission determines that "all other things are equal" Peoples believes that the potential customers from which it has received requests for natural gas service, and other potential

ORDER NO. 25358
DOCKET NO. 910653-GU
PAGE 11

customers in the disputed area, would prefer to receive service from Peoples.

ISSUE 12: Are the parties bound by a territorial agreement?

POSITION

The position to Issue 12 has been stipulated to by all parties. See Section G of this Order for the stipulated position to this issue.

ISSUE 13: Which party should be awarded the service area in dispute?

POSITION

STAFF: No position at this time.

SEBRING: Sebring Gas should be awarded the area in dispute. The company has demonstrated the ability and desire to serve the area. It has facilities nearer to the mall and disputed territory than does Peoples Gas. Furthermore, permitting Sebring Gas to serve the area would be consistent with the decision to declare jurisdiction over Sebring Gas as contained in Order No. 24761 issued on July 5, 1991. In that order the Commission acknowledged that 2 companies might want to serve the same area and expressed concern whether the residents of Sebring could purchase natural gas. The Commission announced they would analyze the situation if the Company (Sebring) was unwilling or unable to provide natural gas to the residents of Sebring by January 10, 1992. Sebring Gas is neither unwilling nor unable to provide service but does need this area in order to be afforded the opportunity to continue to expand its system so that all of its customers will benefit.

PEOPLES: Peoples.

ISSUE 14: Should this docket be closed?

POSITION

ORDER NO. 25358
DOCKET NO. 910653-GU
PAGE 12

STAFF: This docket should be closed if no protest, notice of appeal, or motion for reconsideration is timely filed after the Order is issued.

SEBRING: No position at this time.

PEOPLES: No position at this time.

F. PENDING MOTIONS

None.

G. STIPULATED ISSUES

ISSUE 1: What is the geographical boundary of the disputed area?

POSITION: The disputed area is that area included within the following described boundaries, excluding the area located within the corporate limits of the City of Sebring. Beginning at the intersection of U.S. Highway 27 and Fairmont Drive in Highlands County, Florida, proceed east on Fairmont Drive approximately .2 miles to State Road 17A; then proceed north approximately 1.25 miles to Bramblewood Road (formerly Maxcy Road); then proceed west on Bramblewood Road approximately .5 mile to U.S. Highway 27; then proceed south on U.S. Highway 27 approximately 300 feet to the section line on the northern edge of Section 15, Township 34 South, Range 28 East; then proceed west on the section line approximately 1.25 miles to the northwest corner of said Section 15; then proceed south approximately 3 miles on the section lines along the western edges of Section 15, 22 and 27, Township 34 South, Range 28 East, to the southwest corner of Section 27, Township 34 South, Range 28 East; then proceed east approximately 2 miles on the section lines along the southern edges of Section 27 and 26, Township 34 South, Range 28 East, to U.S. Highway 27 (at Hovey Road); then proceed north on U.S. Highway 27 approximately 2 miles to the point of beginning.

ORDER NO. 25358
DOCKET NO. 910653-GU
PAGE 13

ISSUE 12: Are the parties bound by a territorial agreement?

POSITION: No.

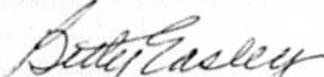
H. MOTIONS

None.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that these proceedings shall be governed by this order unless modified by the Commission.

By ORDER of Commissioner Betty Easley, as Prehearing Officer,
this 19th day of NOVEMBER, 1991.



Betty Easley, Commissioner
and Prehearing Officer

(S E A L)

MAB:bmi
910653.bmi